

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Ronald D. Smith, Roger D. Smith, and
Dianne C. Smith,

Plaintiffs,

vs.

American General Life Insurance
Company,

Defendant.

Civil Action No.

NOTICE OF REMOVAL

YOU ARE HEREBY NOTIFIED that, pursuant to 28 U.S.C. § 1446, the Defendant American General Life Insurance Company (“American General”) hereby files this Notice of Removal of the above-captioned action from the Court of Common Pleas for Florence County, State of South Carolina, to the U.S. District Court for the District of South Carolina, Florence Division.

I. STATEMENT OF COMMENCEMENT OF ACTION

The above-captioned action was commenced by the Plaintiffs by the filing of a Summons and Complaint on December 14, 2017, and providing the same to American General by certified mail dated January 18, 2018. This action is pending in the Court of Common Pleas for Florence County, State of South Carolina, bearing Civil Action No. 2017-CP-21-03367. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed.

II. PLEADINGS AND NOTICE TO STATE COURT

A true and correct copy of all process, pleadings, and orders served upon American General are attached as Exhibit A and are being filed along with this Notice of Removal. Pursuant to 28 U.S.C. § 1446(d), written notice of this removal is being served on the Plaintiffs and is being provided to the Clerk of Court for the Florence County Court of Common Pleas.

III. STATEMENT OF STATUTORY BASIS FOR JURISDICTION

This action is within the original jurisdiction of the U.S. District Court pursuant to 28 U.S.C. § 1332. This statute provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” 28 U.S.C. § 1332(a)(1). As discussed below, this action satisfies both statutory requirements.

A. Amount in Controversy

The Plaintiffs seek to recover damages purportedly resulting from American General’s alleged improper cancellation of a life insurance policy. The Plaintiffs have brought claims for breach of contract, negligence, breach of the implied covenant of good faith and fair dealing, and bad faith. (Pls.’ Compl. ¶¶ 20-37.) The prayer for relief at the conclusion of the Complaint does not specify the amount of recovery sought, nor does it limit the Plaintiffs’ recovery.

The Plaintiffs allege that the death benefit that will be due under the policy upon the insured’s death is \$200,000. (Pls.’ Compl. ¶ 23.) The Plaintiffs also seek to recover punitive damages. Punitive damages should be included in determining the amount in controversy for purposes of removal. As stated by the U.S. Supreme Court, “[w]here both actual and punitive damages are recoverable under a complaint each must be considered to the extent claimed in determining jurisdictional amount.” *Bell v. Preferred Life Assurance Soc’y*, 320 U.S. 238, 240

(1943). In fact, a “claim for punitive damages alone makes it virtually impossible to say that the claim is for less than the jurisdictional amount.” *Woodward v. Newcourt Comm. Fin. Corp.*, 60 F. Supp. 2d 530, 532 (D.S.C. 1999). Accordingly, the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the jurisdictional requirement is satisfied.¹

B. Citizenship of the Parties

The Complaint alleges that the Plaintiffs are citizens and residents of the State of South Carolina. (Pls.’ Compl. ¶¶ 1-3.) American General was at the time of the filing of the Complaint, and still is, a corporation duly organized and existing under the laws of the State of Texas, with its principal place of business in Texas and, therefore, is not a citizen of the State of South Carolina. Accordingly, there is diversity of citizenship between American General and the Plaintiffs.

IV. CONCLUSION

WHEREFORE, the Defendant American General Life Insurance Company hereby removes this matter from the Florence County Court of Common Pleas to the U.S. District Court for the District of South Carolina, Florence Division.

SIGNATURE PAGE ATTACHED

¹ American General does not waive and expressly reserves the right to challenge all damages or other forms of relief on all available grounds.

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